

1 PHILLIP A. TALBERT
2 United States Attorney
3 EMILY G. SAUVAGEAU
Assistant United States Attorney
501 I Street, Suite 10-100
4 Sacramento, CA 95814
Telephone: (916) 554-2700
Facsimile: (916) 554-2900
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6 Attorneys for Plaintiff
7 United States of America
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10 IN THE UNITED STATES DISTRICT COURT
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12 EASTERN DISTRICT OF CALIFORNIA
13

14 UNITED STATES OF AMERICA,

CASE NO. 2:22-CR-210-DJC

15 Plaintiff,

16 STIPULATION AND JOINT REQUEST FOR
17 PROTECTIVE ORDER; PROTECTIVE ORDER
18

v.

19 JUAN NIEBLA-OSUNA,

20 Defendant.
21
22

23 I. **STIPULATION**

24 1. Plaintiff United States of America, by and through its counsel of record, and defendant
Juan Niebla-Osuna, by and through his counsel of record (“Defendant” and “Defense Counsel”), for the
25 reasons set forth below, hereby stipulate, agree, and jointly request that the Court enter a Protective
Order in this case restricting the use and dissemination of certain materials that could identify
26 undercover agents and/or confidential sources, and/or that contain personal identifying information
undercover agents and/or confidential sources, and/or that contain personal identifying information
27 (“PII”) and other confidential information of real persons.
28

2. This Court may enter protective orders pursuant to Rule 16(d) of the Federal Rules of
Criminal Procedure, Local Rule 141.1, and its general supervisory authority.

3. On October 5, 2022, the Defendant was charged in a criminal complaint with possession
with intent to distribute over 500 grams of a mixture and substance containing methamphetamine, in
violation of 21 U.S.C. § 841(a)(1). On October 20, 2022, a federal grand jury returned an indictment

1 charging Defendant with conspiracy to distribute and possess with intent to distribute methamphetamine
2 (Count One) and distribution of methamphetamine (Count Two), in violation of 21 U.S.C. §§ 841(a)(1),
3 846.

4 4. The government previously produced initially discovery in this case. Additionally, the
5 government is in the possession of documents and other materials relating to the charges against the
6 Defendant and seeks to provide those materials to counsel for the Defendant under this order. The
7 government seeks to do so pursuant to its discovery obligations, although some of the materials may
8 exceed the scope of the government's discovery obligations and will be produced to promote a prompt
9 and just resolution of the case.

10 5. The government intends to produce audio recordings, video recordings, photographs,
11 investigative reports, cell phone conversations containing bank account information and PII, and/or
12 other documents that could identify law enforcement confidential sources to Defense Counsel. These
13 real persons are third parties, co-defendants, and/or witnesses to this case. This discovery will be
14 considered "Protected Material" as described in this stipulation and order, as will any other discovery
15 marked as Protected Material.

16 6. The purpose of this stipulation and order is to establish the procedures that must be
17 followed by Defense Counsel, any designated employees, and any other individual who receives access
18 to any Protected Material in this case and the information therein.

19 7. The Government shall produce the aforementioned Protected Material to Defense
20 Counsel, designating the discovery with the bates prefixes, "NEVAREZ-ERUNEZ_PM_" or "NIEBLA-
21 OSUNA_ONLY_PM_." This discovery, and any subsequent material discovered by the Government to
22 Defense Counsel using the bates-prefix, shall be considered Protected Material.

23 8. All Protected Material in this case is now and will forever remain the property of the
24 Government. It is entrusted to Defense Counsel only for purposes of representing the Defendant during
25 the pendency of this case.

26 9. Defense Counsel shall not give any Protected Material to any person other than Defense
27 Counsel's staff assisting in preparation of the present case. The term "staff" shall explicitly include only
28 attorneys, paralegals, legal assistants, retained experts, and investigators assisting Defense Counsel in

1 the present matter. The term excludes any other defendant in this matter or any other pending matter
2 against the Defendant; any person involved in any case in which discovery concerning the Defendant is
3 produced; and any other person other than those specifically authorized to see Protected Material under
4 this paragraph.

5 10. Any person receiving access to the Protected Material from Defense Counsel shall be
6 bound by the same obligations as Defense Counsel and, further, may not give any Protected Material to
7 anyone.

8 11. No members of any of the Defendants' family, friends of the Defendants, personal or
9 professional associates of the Defendants, or any other person affiliated with the Defendants shall be
10 given access to any Protected Material or its contents in any manner, for any reason.

11 12. Defense Counsel may make copies of Protected Material and may take written or typed
12 notes summarizing it in connection with preparation of the case. If necessary to the litigation of the
13 instant matter, Defense Counsel may also have audio or video forms of Protected Material transcribed.
14 All notes, copies, duplicates, summaries, transcripts, or other representations of or concerning the
15 information in the Protected Material comprises "Protected Material" itself, must be affixed with the
16 corresponding bates numbers and the "Protected Material" ledger, and is subject to all terms of this
17 stipulation and order.

18 13. Defense Counsel shall maintain a list of persons to whom any Protected Material is being
19 or has been given. Such persons shall be provided with a copy of the executed version of this stipulation
20 and order, shall sign their full names to a copy, and shall in writing acknowledge that they understand its
21 terms and are bound by it. If Defense Counsel is replaced for any reason, or if new counsel is appointed
22 in any phase of the matter, the new counsel shall not have access to any Protected Material until and
23 unless they sign a copy of this stipulation and order, under the terms described in this paragraph.

24 14. Defense Counsel may use the Protected Material in the defense of Defendant in the
25 instant case in any manner deemed essential to adequately represent him (i.e., in motions that are filed
26 under seal, if necessary; in ex parte applications as may be needed; and in reproducing and summarizing
27 Protected Material for use in trial preparation summaries, exhibits and as evidence, as may be needed),
28 consistent with this stipulation and order as it shall be originally prepared and signed.

15. In the event Defense Counsel needs to use any Protected Material in a manner not authorized under this stipulation and order, Defense Counsel is entitled to seek to have this stipulation and order amended by the District Court, after having given notice to counsel for the Government, in a hearing before the District Court, in order to meet the obligations under the Sixth Amendment to the United States Constitution.

16. Defense Counsel and any authorized members of Defense Counsel's staff are authorized to review with Defendant the contents of the Protected Material. Defense Counsel and authorized members of his/her staff, however, are prohibited from in any way giving Defendant any Protected Material or any memorialization of the content of any of it, such as: any of the Protected Material itself; copies of any of the Protected Material; copies of excerpts of any of the Protected Material; or summaries of any of the Protected Material. This prohibition will not extend to the Defendant viewing the Protected Material in open court should any of these materials or summaries thereof be used in the litigation of this case.

17. Defense Counsel is authorized to show copies of the Protected Material to potential witnesses in this case. Defense Counsel is prohibited, however, from in any way giving any potential witness any Protected Material or any memorialization of the content of any of it, or allowing any potential witness to make a copy or in any way memorialize the contents of any Protected Material.

Respectfully Submitted,

Dated: June 5, 2023

PHILLIP A. TALBERT
United States Attorney

By: /s/ EMILY G. SAUVAGEAU
EMILY G. SAUVAGEAU
Assistant United States Attorney

Dated: June 5, 2023

/s/ DINA SANTOS
DINA SANTOS
Counsel for Defendant
Juan Niebla-Osuna

FINDINGS AND ORDER

The Court having read and considered the Stipulation and Joint Request for a Protective Order, which this Court incorporates by reference into this Order in full, hereby finds that GOOD CAUSE exists to enter the above Order.

IT IS SO FOUND AND ORDERED this 5th day of June, 2023
June 5, 2023

Kendall J. Newman
KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE